

Enforcement and Removal Operations
U.S. Department of Homeland Security
2675 Prosperity Avenue
Fairfax, VA 22031



U.S. Immigration
and Customs
Enforcement

SEP - 6 2011

Ricky Malik, Esq.
P.O. Box 900
Manassas, VA 20113
(703) 686-9900

Re: GODOY [REDACTED] Request for Stay of removal

Dear Mr. Malik,

I have considered your request for a stay of removal on the behalf of your client. I have approved the stay of removal on your client's case for the duration of 6 months. The stay of removal will expire on 03/06/2012. Your client has been issued an Order of Supervision (OSUP) and his/her continued compliance with the conditions as set forth in the OSUP is required. Your client must update this office immediately with any change of address. If you have any questions, please contact Deportation Officer [REDACTED]

Sincerely,


Enrique M. Lucero
Field Office Director

OMB No. 1653-0021
Expires: 12/31/2013

For Internal Use Only

Fee/Date Stamp

M.D. Accepted
\$155.00 CM.

Deciding Official Signature: _____ Office: _____

08/26/2011

GODOY [REDACTED]

Guatemala

☐ one year ☐ six months ☐ three months ☒ other 2 years

Arrested by police or other law enforcement agency
(other than for immigration reasons)

Sections of law for which of ordered deported/removed:
INA 212 (a) (6) (A) (i)

(Signature)

(Signature)

VA 20113

(Zip Code)

LAW OFFICES OF RICKY MALIK, P.C.

Toll Free: (877) 577-VISA
Greencard@mail.com
www.Rmlegal.com

8620 Centreville Road
Manassas, VA 20110
Tel: (703) 686-9900

Mailing Address: P.O. Box 900, Manassas, VA 20113

Return Fax Number: (703) 686-9903

3 Bethesda Metro Center, Suite 700
Bethesda, MD 20814
Tel: (301) 434-8472

Ricky Malik, Esq.*

*Admitted to Maryland & DC

August 29, 2011

VIA HAND DELIVERY

ICE Enforcement and Removal Operations
Washington Field Office
2675 Prosperity Avenue
Fairfax, VA 22030

**RE: REQUEST FOR PROSECUTORIAL DISCRETION—STAY OF
REMOVAL AND DEFERRED ACTION**

GODOY

Dear Sir or Madam:

I am writing to respectfully request that you exercise your prosecutorial discretion in granting [REDACTED] ("Applicant") a stay of removal and/or deferred action. Ms. Godoy's compelling individualized circumstances and needs particularly warrant such discretion. She is a nursing mother and cares for her three-week old United States citizen infant daughter. She also has a six-year old son who has hearing loss and will require surgery and treatment for his condition. In support of her Application for Stay of Removal and Request for Deferred Action, please find the following:

1. I-246 Application for Stay of Removal with \$155 filing fee
2. Form G-28, Notice of Entry of Appearance
3. Applicant's November 17, 2009 Order of Supervision
4. Applicant's Affidavit
5. Applicant's Guatemalan Birth Certificate
6. Applicant's USC Infant Daughter's Proof of Birth Letter
7. Applicant's Son's Guatemalan Birth Certificate
8. Applicant's USC Son's Birth Certificate
9. Applicant's Son [REDACTED] Guatemalan Passport
10. Doctor's Reports Indicating Hearing Loss, Prior Surgery, and Need for Future Surgery

11. Chesterfield County Public Schools Health Report of [REDACTED] Indicating Potential Hearing Loss
12. Photographs of Applicant and Her Children
13. I-130 Petition Receipt of Notice
14. Applicant's Father's Permanent Resident Card
15. Petition for Alien Relative by Applicant's Father on Behalf of Applicant
16. Applicant's Sister's United States Passport*
17. Applicant's Sister's Permanent Resident Card
18. Applicant's Brother's Permanent Resident Card
19. Applicant's 2010 Federal Tax Returns
20. Warrant of Arrest and Certified Disposition of Nolle Prosequi Order
21. 2005 Notice to Appear
22. November 11, 2006 Removal Order
23. ICE and Legacy INS Prosecutorial Discretion Memoranda (2000, 2005, 2007, 2011)

*Applicant also has another United States citizen sister whose documentation is not included in this application package

As an Immigration and Customs Enforcement official, you are vested with the authority to make determinations at all stages of pending cases, from the initial decision to prosecute a case until the final decision to deport an individual.¹ Ms. Godoy's case is especially meritorious in light of Director John Morton's June 27, 2011 memorandum directing ICE officials to engage in prosecutorial discretion to ensure a focus on the agency's enforcement priorities.² Granting relief from removal to Ms. Godoy would allow the agency to be in line with its enforcement priorities.

Director Morton's June 17, 2011 memo entitled "Exercising Prosecutorial Discretion" includes granting deferred action and staying a final order of removal in the list of enforcement decisions that qualify for prosecutorial discretion.³ Among the ICE employees who may exercise such discretion are "officers, agents, and their respective supervisors within Enforcement and Removal Operations."⁴ Officers should consider "all relevant factors," including the following:

- The agency's civil immigration enforcement priorities
- Length of presence in the United States
- Any relevant criminal history
- Immigration history
- Whether the person poses a national security or public safety concern

¹ Memorandum, "Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens, John Morton, Director, U.S. Immigration and Customs Enforcement (2011) [Hereinafter 2011 Morton Memorandum]; Memorandum, "Prosecutorial and Custody Discretion," Julie Myers, Assistant Secretary U.S. Immigration and Customs Enforcement (2007); Memorandum, "Prosecutorial Discretion," William J. Howard, Principal Legal Advisor, U.S. Immigration and Customs Enforcement (2005); Memorandum, "Exercising Prosecutorial Discretion," Doris Meissner, Commissioner, Immigration and Naturalization Service (2000).

² 2011 Morton Memorandum

³ 2011 Morton Memorandum, p. 3.

⁴ *Id.*

- Ties and contributions to the community, including *family relationships*
- Whether the person has U.S. citizen or LPR spouse, parents, or child
- Whether the person is *pregnant or nursing*
- Whether the person is the primary caretaker of a person with a mental or physical disability, minor, or seriously ill relative
- Whether the person is likely to be granted temporary or permanent status⁵

Ms. Godoy is a nursing mother and her need to care for her infant child (who was born in early August and is only three weeks old), in addition to the serious medical condition of her six year old, calls for special consideration. Ms. Godoy has three children, two of whom are United States citizens. Her third child was born only three weeks ago, and as a nursing mother, she falls into one of the classes of individuals that Director Morton designated for “prompt particular care and consideration.”⁶ Additionally, she is the primary caretaker of her minor child who has a physical disability. As the attached medical documents illustrate, her six year old son has hearing loss and suffers from serious ear infections. He has already had surgery once and will most likely require surgery for his condition again. None of the negative classifications warranting particular care apply to Ms. Godoy: she poses absolutely no national security risk, she has no criminal record, she is not a gang member or threat to public safety, and she does not have a record of egregious immigration violations.⁷ Further supporting an exercise of prosecutorial discretion for Ms. Godoy is the November 7, 2007 memorandum entitled “Prosecutorial and Custody Discretion” from Julie L. Myers, which emphasizes “*the importance of exercising prosecutorial discretion when making administrative arrest and custody determinations for aliens who are nursing mothers.*”⁸

Ms. Godoy last entered the United States in December of 2005 and has resided in [REDACTED] Virginia. Her entire immediate family resides in the United States. She has very strong family ties in the United States and her removal would impose extreme hardship on her and her children, as it would separate her from her children, siblings, and parents. Ms. Godoy has two United States citizen sisters, two Lawful Permanent Resident (LPR) sisters, one LPR brother, and an LPR father. She has no negative criminal history, and the sole criminal charge (for driving with a suspended license) that she faced was dismissed by the prosecution. On November 9, 2006 Ms. Godoy was ordered removed *in absentia*. As is evident in her affidavit, she is sincerely apologetic for not appearing at her removal proceedings, and would have appeared had she been able to afford an attorney to transfer her case from Kansas to Virginia (where she resided at the time). Additionally, she has complied with all of the requirements of her November 17, 2009 Order of Supervision, including reporting to ICE when required to do so. Due to her strong family ties to the United States, she will have eventual relief available in the form of adjustment of status through a relative such as her LPR father.

The equities in this case, and the strong humanitarian factors in Ms. Godoy’s favor, make her case a prime example of where prosecutorial discretion should be exercised. Your understanding of Ms. Godoy’s tremendously challenging situation is truly appreciated. We are

⁵ *Id.* at 4.

⁶ 2011 Morton Memorandum, p. 5 (pregnant or nursing women warrant “prompt particular care and consideration.”)

⁷ 2011 Morton Memorandum, p. 5 (negative factors that prompt particular care and consideration) (emphasis added)

⁸ Memorandum, “Prosecutorial and Custody Discretion,” Julie Myers, Assistant Secretary U.S. Immigration and Customs Enforcement (2007), at 1.

hopeful for a favorable outcome that will ease the difficulty faced by Ms. Godoy and her family. Thank you for your immediate attention to this matter. Please do not hesitate to contact me with any questions.

Sincerely,
THE LAW OFFICES OF RICKY MALIK, P.C.

A handwritten signature in black ink, appearing to read 'Ricky Malik', with a stylized flourish extending upwards and to the right.

Ricky Malik, Esq.

Enclosure(s): Listed above

RM/sz

U.S. Department of Homeland Security
Immigration and Customs Enforcement

Continuation Page for For

Alien's Name: GODAY [REDACTED] File Number: [REDACTED] Date: 11/17/09

[REDACTED] Godoy

Alien's Signature

Alien's Address

Alien's Telephone Number (if any)

Alien's DOB: [REDACTED]



Alien's Finger Print
(specify finger used)

R THUMB

PERSONAL REPORT RECORD

DATE	NEXT REPORT DATE	COMMENTS/CHANGES
12/16/09, reported.	Next report date 2/16/10	D.690
2/16/10/ reported	Next Report DATE 2/16/11	228314
2/16/11 Reported. Next report date is 04/12/2011		
4/20/11 reported.	Next report date 6/15/11	D.690
6/15/11 Reports	Next: August 17, 2011	(at 09:00 AM)
8/17/11 - Report	Transition to ATD	with MTR updates.
	PASSPORT + Itinerary by 8/31/2011	
	Depart United States no later than 9/7/2011	

Signature

Title

DEPORTATION OFFICER

[REDACTED]

Affidavit [REDACTED]

I give the following statement under penalty of perjury:

1. My name is [REDACTED] and I was born in Guatemala [REDACTED] 1 live in [REDACTED] VA with my sister at [REDACTED]
2. I have been in the United States for a total of about nine (9) years. I live here with my three children and my siblings. All of my siblings and children (except for one son) have green cards or are U.S. citizens. My father lives in New York and is a Lawful Permanent Resident.
3. One of my children suffers from hearing loss and his condition needs to be monitored, because he may need surgery.
4. Another one of my children is only 3 weeks old.
5. I first came to the United States at some time in late 2000.
6. In 2001, my father, who was at the time a Lawful Permanent Resident filed an I-130 Petition for me.
7. I left the United States in 2003 and came back through Texas around December 9, 2005 with my son [REDACTED], who was nine months old.
8. I was stopped by a border patrol agent and given a lot of papers that I was asked to sign.
9. I sincerely apologize for not going to my immigration hearing, and since that time I have cooperated with immigration officers to follow my Order of Supervision. I have met with my immigration officer about every two months and have never missed an appointment.
10. In 2009, I was charged with driving without a license, but this charge was then dropped and a nolle prosequi ordered by the court because I never knew that my license was suspended. See **Virginia court disposition.**
11. This is the only time that I have been charged with a crime, and other than this dropped charge, I have no criminal record.
12. I live in the United States with three children. Two of them are U.S. citizens and one of them [REDACTED] is not a U.S. Citizen.
13. My oldest child, my son [REDACTED] was born in the U.S. and is 10 years old.
14. My son [REDACTED] is six (6) years old and has hearing loss and other medical complications with his ear. About every month, a foul smelling discharge comes out his ear. He has visited a few doctors for his condition, and most recently saw a doctor on August 24, 2011. The doctor said that he needs to be checked again in six (6) months and that he will possibly need surgery. He also had

throat surgery about five months ago for his hearing condition. See **attached doctor's note and medical records.**

15. I just gave birth to another daughter, [REDACTED], on August 9 of this year. She is almost 3 weeks old and I cannot be separated from her at such a young age. She is too young to travel and has not received all of her vaccinations.
16. I have two sisters who are U.S. citizens—one lives in [REDACTED] and one lives in [REDACTED].
17. I have another sister who is a LPR and one brother who is a LPR. They live in both live in [REDACTED]
18. My father is a U.S. citizen and he lives in [REDACTED] with my youngest sister.
19. I would like to remain in the United States with my siblings and my children. I would like to be able to work to support my family.
20. I need to stay in the United States to care for my children, especially [REDACTED] who needs treatment for his hearing loss, and also to care for my newborn daughter. I am very concerned for the health and wellbeing of [REDACTED].
21. [REDACTED] are both in school and I would like them to support them while they finish their education in the United States.
22. I am asking you to please use your authority to prevent me from being separated from my entire family and my children. I have lived in the United States peacefully and this has become my home. I have no one or nowhere to go back to in Guatemala. I want to contribute to my community in [REDACTED] as much as possible and be a productive member of society here in the United States.

This statement was read back to me in Spanish and I swear it to be true.

Esta declaración fue traducida en español y juro que es verdad.

[REDACTED] Godoy
[REDACTED]
[REDACTED]

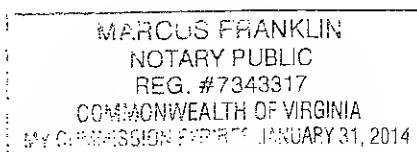
8/26/2011
Date

Marcus Franklin

Marcus Franklin

Reg # 7343317

08/26/11



UNITED STATES OF AMERICA

RECEIPT NUMBER [REDACTED]		CASE TYPE D-80 IMMIGRANT PETITION FOR RELATIVE FIANCE (F) OR ORPHAN	
RECEIVED DATE April 5, 2001	PRIORITY DATE	PETITIONER GODDY, [REDACTED]	
NOTICE DATE April 18, 2001	PAGE 1 of 1	BENEFICIARY GODDY, [REDACTED]	
[REDACTED] GODDY		Notice Type: Receipt Notice	
24501		Amount received: \$ 110.00 Section: Unmarried child under 21 of permanent resident, 203(a)(2)(A) INA	

The above application or petition has been received. It usually takes 180 to 760 days from the date of us to process this type of case. Please notify us immediately if the above information is incorrect.

We will send you a written notice as soon as we make a decision on this case. You can also use the phone number (802) 527-4913 to obtain case status information direct from our automated system 24 hours a day with a touch-tone phone and the receipt number for this case (at the top of this notice).

If you have other questions about possible immigration benefits and services, filing information, or INS forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call the NCSC TDD at 1-800-767-1833.

If you have access to the internet, you can also visit the INS at www.ins.usdoj.gov. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

IMMIGRATION AND NATURALIZATION SERVICE

VERMONT SERVICE CENTER

75 LOWER WELDEN STREET

SAINT ALBANS VT 05475-6001

Customer Service Telephone: (802) 527-4913

(8)

DO NOT WRITE IN THIS BLOCK - FOR EXAMINING OFFICE ONLY

Case ID#	Action Stamp	Fee
A#	<div style="border: 2px solid black; padding: 5px; text-align: center;">APPROVED I. N. S. DISTRICT DIRECTOR APR 29 2005 Recommended by: <i>[Signature]</i> VSC 12101</div>	04/18/2001
G-28 or Volag #		Petition was filed on: <u>4/17/01</u> (priority date)
Section of Law: <input type="checkbox"/> 201 (b) spouse <input type="checkbox"/> 203 (a)(1) <input type="checkbox"/> 201 (b) child <input checked="" type="checkbox"/> 203 (a)(2) <input type="checkbox"/> 201 (b) parent <input type="checkbox"/> 203 (a)(4) <input type="checkbox"/> 203 (a)(5)		<input type="checkbox"/> Personal Interview <input type="checkbox"/> Previously Forwarded <input type="checkbox"/> Pet. <input type="checkbox"/> Ben. "A" File Reviewed <input type="checkbox"/> Stateside Criteria <input type="checkbox"/> Field Investigations <input type="checkbox"/> I-485 Simultaneously <input type="checkbox"/> 204 (a)(2)(A) Resolved <input type="checkbox"/> 204 (h) Resolved
AM CON. <u>WSE</u> Remarks: <u>P22 CSPK</u>		

A. Relationship

1. The alien relative is my ☐ Husband/Wife ☐ Parent ☐ Brother/Sister ☒ Child ☐ Yes ☒ No ☐ Yes ☒ No

B. Information about you

1. Name (Family name in CAPS) (First) (Middle)
GODOY [REDACTED]
2. Address (Number and Street) (Apartment Number)
[REDACTED]
Town or City (State/Country) (ZIP/Postal Code)
[REDACTED]

C. Information about your alien relative

1. Name (Family name in CAPS) (First) (Middle)
GODOY [REDACTED]
2. Address (Number and Street) (Apartment Number)
[REDACTED]
Town or City (State/Country) (ZIP/Postal Code)
[REDACTED]

Place of Birth (Town or City) (State/Country)
GUATEMALA, GUATEMALA
Date of Birth (Mo/Day/Yr) 5. Sex ☐ Male ☐ Married ☒ Single
[REDACTED] ☒ Female ☐ Widowed ☐ Divorced
Other Names Used (including maiden name)
NONE
Date and Place of Present Marriage (if married)
NONE
Social Security Number 10. Alien Registration Number (if any)
NONE [REDACTED]
Names of Prior Husbands/Wives Date(s) Marriage Ended
N/A [REDACTED]
Has your relative ever been in the U.S.?
☒ Yes ☐ No
If your relative is currently in the U.S., complete the following: He or she last arrived as a (visitor, student, stowaway, without inspection, etc.)
E.W.I
Arrival/Departure Record (I-94) Number Date arrived (Month/Day/Year)
[REDACTED] 08-00
Is the authorized stay expired, or will expire, as shown on Form I-94 or I-95?
N/A
Name and address of present employer (if any)
NONE
Date this employment began (Month/Day/Year)
NONE
Has your relative ever been under immigration proceedings?
☒ Yes ☐ No Where TEXAS When 08-00
☐ Exclusion ☐ Deportation ☐ Recission ☐ Judicial Proceedings

INITIAL RECEIPT

RESUBMITTED

RELOCATED

COMPLETED